

REMARKS

REQUEST FOR INTERVIEW:

In order to advance the prosecution of this matter, Applicants respectfully request an in-person interview with respect to the claims, in particular the independent claims, of this matter. Please call Applicants' attorney D.J. Stockley at 202-434-1536 to set up a time for said interview that is convenient for the Examiner.

INTRODUCTION:

In accordance with the foregoing, claims 1, 4, 9, 10, 12 and 14-25 have been amended. No new matter is being presented, and approval and entry are respectfully requested.

Claims 1-25 are pending and under consideration. Reconsideration is respectfully requested.

REJECTION UNDER 35 U.S.C. §103:

A. In the Office Action, at pages 2-4, numbered paragraph 4, claims 1, 3, 6, 9, 10, 11, 12, 15, 16, 17, 18, 19 and 20-25 were rejected under 35 U.S.C. §103(a) as being unpatentable over Yamauchi et al. (USPN 5,613,109; hereafter, Yamauchi) and Min (USPN 5,175,716; hereafter, Min) in view of De Pommery et al. (USPN 4,450, 535; hereafter, De Pommery) in view of Chigira (USPN 5,163,356; hereafter, Chigira). The reasons for the rejection are set forth in the Office Action and therefore not repeated. The rejection is traversed and reconsideration is requested.

B. In the Office Action, at pages 4-5, numbered paragraph 5, claims 2, 4, 5, 7, 8, 13, and 14 were rejected under 35 U.S.C. §103(a) as being unpatentable over Yamauchi et al. (USPN 5,613,109; hereafter, Yamauchi) and Min (USPN 5,175,716; hereafter, Min) in view of De Pommery et al. (USPN 4,450, 535; hereafter, De Pommery) and further in view of Chigira (USPN 5,163,356; hereafter, Chigira). The reasons for the rejection are set forth in the Office Action and therefore not repeated. The rejection is traversed and reconsideration is requested.

In response to **A** and **B** above, as set forth in In Re Denis Rouffet, Yannick Tanguy and Frederic Berthault, CAFC, July 15, 1998, it is respectfully submitted that the courts have held that it is not enough to simply recite that the elements of a present invention are found by combining a number of existing patents or to implement hindsight to use the present invention

as a blueprint to combine elements of existing patents in an effort to produce the present invention:

As this court has stated, "virtually all [inventions] are combinations of old elements." Environmental Designs, Ltd. v. Union Oil Co., 713 F.2d 693, 698, 218 USPQ 865, 870 (Fed. Cir. 1983); see also Richdel, Inc. v. Sunspool Corp., 714 F.2d 1573, 1579-80, 219 USPQ 8, 12 (Fed. Cir. 1983) ("Most, if not all, inventions are combinations and mostly of old elements."). Therefore an examiner may often find every element of a claimed invention in the prior art. If identification of each claimed element in the prior art were sufficient to negate patentability, very few patents would ever issue. Furthermore, rejecting patents solely by finding prior art corollaries for the claimed elements would permit an examiner to use the claimed invention itself as a blueprint for piecing together elements in the prior art to defeat the patentability of the claimed invention. Such an approach would be "an illogical and inappropriate process by which to determine patentability." Sensonics, Inc. v. Aerosonic Corp., 81 F.3d 1566, 1570, 38 USPQ2d 1551, 1554 (Fed. Cir. 1996).

To prevent the use of hindsight based on the invention to defeat patentability of the invention, this court requires the examiner to show a motivation to combine the references that create the case of obviousness. In other words, the examiner must show reasons that the skilled artisan, confronted with the same problems as the inventor and with no knowledge of the claimed invention, would select the elements from the cited prior art references for combination in the manner claimed.

The Examiner admits that "Yamauchi fails to disclose that the judging data (or comparator or generator) is for judging present time that falls within the requestable period of time." In addition, the Examiner admits that "Yamauchi and Min fail to disclose Applicant's newly added limitations wherein said a key to unlock content (is) stored thereon," that "Yamauchi, Min and DePommery fail to disclose Applicant's newly added limitation wherein said calendar sales" (i.e., determining whether the present calendar time is within the requestable calendar sales period of time), and that "Chigira discloses a prediction for future sales based on a calendar information and a record of sale stored in a first memory."

Yamauchi teaches a data reproduction apparatus having a storage means, a management data readout and save means, a first-data-group-readout first direction means, a first address value extraction unit, a first address indication unit, input manipulation means, a first-data-group-readout second direction means, a first-data-group readout means, a first-data-group reproduction means, a first-data-group output means, a second-data-group output judgment means, a second-data-group readout means, a second-data-group reproduction

means, a second-data-group selection means, a branch channel judgment unit, a reproduction channel determination unit, a third address value extractino unit, and an element data readout unit to output reproduction data by judging whether a second data group is outputted after a first data group is outputted by a reproduction point. There is no teaching or suggestion of whether the judging data is for judging present time that falls within a requestable period of time.

Min teaches a method for searching for a track in an optical recording/reproducing apparatus by determining a first time period, said first time period being the time required to drive a sled motor to move a pick-up unit between a current position and a reference position on a compact disk; determining a second time period, said second time period being the time required to drive said sled motor to move said pick-up unit between a target position and said reference position on the compact disk; comparing the first time period with the second time period to determine a third time period, said third time period being the time required to drive said sled motor to move the pick-up unit from said current position to said target position; driving said sled motor in a first direction for time equal to said third time period; and searching for the target track at an expiration of said third time period by driving the sled motor. It is respectfully submitted that determining first, second and third time periods, being times required to drive a sled mototor to move a pick-up unit between desired positions on a compact disk, does not teach or suggest judging data to determine whether a present time falls within a requestable period of time.

De Pommery teaches a system and process for authorizing the distribution of articles or services, the system comprising: first means for receiving first and second detachable data carriers, each data carrier having processing means, data storage means, decision-making means and interfacing circuits; second means for processing information from the first and second detachable data carriers; third means for providing bi-directional communication between the first and second detachable data carriers and said second means, the second detachable data carrier having means necessary for enabling said bi-directional communication between the first detachable data carrier and said second means; and fourth means responsive to said information processed by the second means for authorizing delivery of the articles or services. As noted by the Examiner, De Pommery fails to teach or suggest determining whether the present calendar time is within the requestable calendar sales period of time, as is recited by the present invention.

Chigira teaches an automatic food vending machine comprising: means for cooking food materials; first storage means for storing food materials for a long period; second storage means for preserving food materials in a condition that they can be quickly cooked by said cooking means; first transport means for transporting food materials from said first storage means to said second storage means; second transport means for transporting food materials from said second storage means to said cooking means; memory means for storing information concerning the food materials that were sold from said machine over a predetermined period; means for computing desirable storage conditions of food materials in the second storage means based on the information stored in the memory means; and means for controlling the operation of the first transport means based on the computed storage conditions. It is respectfully submitted that Chigira teaches tracking a time that food materials were sold from the vending machine over a predetermined period, whereas the present invention recites (exemplary terminal, sales system, storage medium, and method claims are set forth below):

(claim 1) a terminal comprising: a period reader reading a requestable calendar sales period of time stored on an individual self contained computer readable content medium, the content medium indicating the requestable calendar sales period of time during which a content on the content medium can be served; a present calendar time data generator generating present calendar time data indicating a present calendar time; a comparator comparing the requestable calendar sales period of time with the present calendar time; a requestor for submitting a request when said comparator judges that the present calendar time falls within the requestable calendar sales period of time, to a center for obtaining use of the content;

(claim 4) a sales system comprising: a terminal comprising: a period reader reading a requestable calendar sales period of time stored on a self contained independent computer readable content medium indicating the requestable calendar sales period of time during which a content can be served by submitting a request to a center; a present calendar time generator for generating present calendar time data indicating a present calendar time; a comparator comparing the requestable calendar sales period of time with the present calendar time; and a requestor submitting a request to a center for obtaining use of the content when said comparator judges that the present calendar time falls within the requestable calendar sales period of time; and the center comprising: a

key supplier supplying said terminal with a key for unlocking the content when the present calendar time falls within the requestable calendar sales period of time.

(claim 9) a self contained computer readable storage medium which contains locked content, a requestable calendar sales period concerning the locked content, and a program executed by a computer, wherein said program: reads the requestable calendar sales period of time; generates present calendar time data indicating a present calendar time; compares the requestable calendar sales period of time with the present calendar time; judges that the present calendar time data falls within said requestable calendar sales period or falls outside the requestable calendar sales period of time; and requests to a center for obtaining use of the locked content when the present calendar time falls within said requestable calendar sales period of time; and uses a key to unlock the locked content stored thereon when the present calendar time falls within said requestable calendar sales period of time.

(claim 15) a method for ascertaining a sales period exists, said method comprising: reading a requestable calendar sales period of time stored on a self contained independent computer readable medium indicating a serving calendar period of time; generating present calendar time data indicating a present calendar time; comparing the requestable calendar sales period of time stored on the medium with the present calendar time to judge whether said present calendar time falls within the requestable calendar sales period of time; and requesting a key from a center to obtain the locked content when the comparing determines that the present calendar time falls within the requestable calendar sales period of time.

Thus, it is clear that the automatic food vending machine of Chigira does not teach a requestable calendar sales period of time stored on an individual self contained computer readable content medium that is recited for the terminal of the present invention, a sales system comprising: a terminal comprising: a period reader reading a requestable calendar sales period of time stored on a self contained independent computer readable content medium indicating the requestable calendar sales period of time during which a content can be served by submitting a request to a center that is recited for a sales system of the present invention, a self contained computer readable storage medium which contains locked content, a requestable calendar sales period concerning the locked content, and a program executed by a computer that is recited for a self-contained computer readable storage medium of the present invention, or a method for ascertaining a sales period exists, said method comprising: reading a requestable calendar sales period of time stored on a self contained independent computer readable medium indicating a serving calendar period of time; generating present calendar time data indicating a present calendar time; comparing the requestable calendar sales period of time stored on the medium with the present calendar time to judge whether said present calendar time falls within the requestable calendar sales period of time; and requesting a key from a center to obtain the locked content when the comparing determines that the present calendar time falls within the requestable calendar sales period of time as is recited for the method of the present invention.

Thus, it is respectfully submitted that, alone or in combination, Yamauchi, Min, DePommery and/or Chigira fail to teach or suggest the present claimed invention. It is also respectfully submitted that there is no teaching or suggestion of combining Yamauchi, Min, DePommery and Chigira. Hence, independent claims 1, 4, 9, 10, and 12-25 are submitted to be patentable under 35 U.S.C. §103(a) over Yamauchi et al. (USPN 5,613,109) and Min (USPN 5,175,716) in view of De Pommery et al. (USPN 4,450, 535) in view of Chigira (USPN 5,163,356). Since claims 2, 3, 5, 6, 7, 8 and 11 depend from claims 1, 4 and 9, claims 2, 3, 5, 6, 7, 8 and 11 are submitted to be patentable under 35 U.S.C. §103(a) over Yamauchi et al. (USPN 5,613,109) and Min (USPN 5,175,716) in view of De Pommery et al. (USPN 4,450, 535) in view of Chigira (USPN 5,163,356) for at least the reasons that claims 1, 4 and 9 are submitted to be patentable under 35 U.S.C. §103(a) over Yamauchi et al. (USPN 5,613,109) and Min (USPN 5,175,716) in view of De Pommery et al. (USPN 4,450, 535) in view of Chigira (USPN 5,163,356).

CONCLUSION:

In accordance with the foregoing, it is respectfully submitted that all outstanding objections and rejections have been overcome and/or rendered moot, and further, that all pending claims patentably distinguish over the prior art. Thus, there being no further outstanding objections or rejections, the application is submitted as being in condition for allowance which action is earnestly solicited. At a minimum, this Amendment should be entered at least for purposes of Appeal as it either clarifies and/or narrows the issues for consideration by the Board.

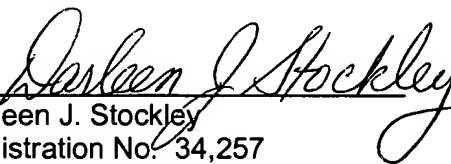
If the Examiner has any remaining issues to be addressed, it is believed that prosecution can be expedited and possibly concluded by the Examiner contacting the undersigned attorney for a telephone interview to discuss any such remaining issues.

If there are any underpayments or overpayments of fees associated with the filing of this Amendment, please charge and/or credit the same to our Deposit Account No. 19-3935.

Respectfully submitted,

STAAS & HALSEY LLP

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By: 
Darleen J. Stockley
Registration No. 34,257

1201 New York Avenue, N.W.
Suite 700
Washington, D.C. 20005
Telephone: (202) 434-1500
Facsimile: (202) 434-1501